

## MEMORANDUM

**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** September 7, 2018

**SUBJECT:** **OP Report** – Request for a Modification of Consequence to approved Design Review 17-05A at 2100 2<sup>nd</sup> Street SW

---

### **I. RECOMMENDATION**

After a review of the request, including a comparison of the modified plans against the approved plans and the Order (ZC 17-05); OP **concurs** with the applicant's submission that the proposed refinements are a **modification of consequence**. The applicant refined the building design through the permit process and has proposed modifications that would change conditions of the final order and would result in the redesign or relocation of architectural elements.

As such, OP has no objections with the applicant's request being considered a modification of consequence, and recommends that the proposed modifications be **approved**, subject to the applicant addressing DOEE concerns noted in this report.

### **II. BACKGROUND**

Subtitle Z § 703 provides for Zoning Commission consideration of a modification of consequence to previously approved orders and plans as follows:

#### **703 CONSENT CALENDAR – MINOR MODIFICATION, MODIFICATION OF CONSEQUENCE, AND TECHNICAL CORRECTIONS TO ORDERS AND PLANS**

...

703.3 For the purposes of this section, the term “**modification of consequence**” shall mean a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance

703.4 Examples of **modification of consequence** include, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission.

703.5 For the purposes of this section, a “**modification of significance**” is a modification to a contested case order or the approved plans of greater significance than a modification of consequence. Modifications of significance cannot be approved without the filing of an application and a hearing pursuant to Subtitle Z § 704.

703.6 Examples of **modifications of significance** include, but are not limited to, a change in use, change to proffered public benefits and amenities, change in required covenants, or additional relief or flexibility from the zoning regulations not previously approved.

A “modification of consequence” requires the establishment of a timeframe for the parties in the original proceeding to file comments on the request and the scheduling of a date for Commission deliberations, while a more substantive “modification of significance” requires the holding of a public hearing, in accordance with Subtitle Z § 704.

### III. MODIFICATION REQUEST

In summary, the applicant is proposing to modify the approved Design Review as follows:

*Development Parameters:*

Item	Approved Design Review	Proposed Design Review Modification	Plans Sheet #
1 <sup>st</sup> Street SW Façade	The First Street SW façade showed street level entrances to the building.	The applicant is proposing a raised landing with three steps, within the property line, that would provide access to the main residential lobby and the retail space at the northeast corner of the building.	A19
Penthouse Roof Terrace and Façade	The penthouse featured a pool, pool deck, and enclosed amenity space.	The applicant is proposing to reorient the pool, which would now be an infinity pool, install a raised pool deck, and add a trellis.  Penthouse residential unit configurations also changed, which resulted in changes to the exterior façade as it relates to the placement of solid and glass window panels.	A25, A48, A51, A56
South Terrace and Façade	The south façade featured a raised terrace that would serve as access to and outdoor seating for the Anacostia River facing restaurants.  The terrace was surfaced with wood.  The perimeter of the terrace featured a solid wall that served as floodproofing.	The raised terrace would continue to serve as access and seating for the ground floor restaurants. A covered walkway at the southeast corner would connect the terrace to the First Street SW.  The terrace would be surfaced with granite pavers.  The perimeter of the terrace would no longer serve as floodproofing and would feature a more open, railing design.	A19, A51, A54, A54a, A56
Materials	The applicant was proposing Trespa and Equitone panels.  The applicant was proposing precast panels on the west residential bar of the building.	The applicant is proposing Nichiha panels.  The applicant is now proposing ACM panels in lieu of the precast.  The balcony dividers are proposed as 5-foot pre-fabricated partitions.	A51, A51a, A54, A54a

Item	Approved Design Review	Proposed Design Review Modification	Plans Sheet #
River’s Edge	The applicant proposed a crushed shell beach at the Anacostia River edge.	The applicant is proposing a natural rock scramble in place of the beach.	L12, L13, L22
Flood Protection	The applicant proposed stackable aluminum planks as the method of flood protection at building openings.	The applicant is proposing a flood barrier system that would be installed around the perimeter of the building.	A19, A51, L12

***Changes in Previously Approved Relief and Flexibility Requests***

The proposed modification of consequence would not result in any changes to previously approved relief or flexibility requests.

**IV. OP ANALYSIS**

The proposed changes would primarily affect the exterior of the building and would not result in changes to the proposed height or FAR for the project.

The applicant should confirm that the proposed rock scramble provides the same benefits and access as the softer edge that would have been provided with the crushed shell beach.

**V. ANC/ COMMUNITY COMMENTS**

Comments from ANC 6D and the community had not been received at the time this report was written.

**VI. AGENCY REFERRALS**

The District Department of Energy and the Environment (DOEE) and District Department of Transportation (DDOT) received notice of the requested modification of consequence.

Comments were received from DOEE indicating that it did have concerns with the proposed revisions related to flood protection measures. DOEE noted that the flood barrier locations have evolved since the applicant’s submittal to provide more access points to the building. The applicant should provide an updated plan showing the proposed flood barrier building access points.

JS/emv  
 Case Manager: